



Waiting for Justice:
how victims of crime are waiting
longer than ever for criminal trials

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Executive Summary

Victims and witnesses of crime are facing increasingly long waits to see offenders brought to justice. The Crown Court is taking longer than at any point in the past 15 years to process cases and the backlog of outstanding cases is increasing rapidly.

Figures released by the Ministry of Justice have revealed that the average time from offence to completion for cases heard at the Crown Court now stands at over ten and a half months. The most serious (indictable) offences where a defendant pleads not guilty take more than a year from offence to completion.

Lack of capacity in the Crown Court is the main driver of increased waiting times, with the time taken between sending a case to the Crown Court and the start of the substantive hearing having risen dramatically since the year 2000. Where a defendant pleads not guilty in the Crown Court the average time taken for a case to be listed for trial has climbed by over 55 per cent over the past decade and half, increasing from 18.6 weeks in 2000 to an average of 29 weeks in 2014.

In parallel to the increase in the time taken for cases to reach trial, the number of outstanding cases (those waiting for trial) is also rising fast. There are now over 54,000 outstanding cases waiting to be heard in the Crown Court, up 75 per cent since the year 2000. The current backlog of trials would take a year and a half to clear from this point were there to be no further cases sent for trial during that time.

The consequences of an overburdened courts system and long waits for trial are serious and far reaching. Long waits for cases to reach trial can prove stressful for victims and witnesses, preventing them from moving on from the crime and hindering their recovery. The pressure on the courts system is also leading to an increase in adjournments caused by issues of court administration, further adding to the anxiety and inconvenience experienced by court users. Further, there is some evidence that long waiting times may diminish the quality of the evidence given by witnesses or at worst result in them failing to attend court altogether. Long waiting times may also provide defendants with an opportunity to 'game the system', pleading not guilty in the expectation that victims or witnesses may lose interest in the case by the time it reaches trial, a possibility highlighted by Lord Justice Leveson in his review of efficiency in criminal proceedings.

With waiting times at a 15 year high and set to increase further, and a mounting backlog of cases waiting for trial, it is clear that the courts system is reaching crisis point. Victim Support is concerned that the failure of the courts to process criminal cases within a reasonable timeframe risks doing immense damage to the standing and effectiveness of our criminal justice system. A concerted and vigorous effort is now required to urgently address the issues faced by the courts and ensure that they provide a timely and effective service for victims and witnesses.

We recommend that the new government urgently establishes a criminal courts waiting times taskforce and commits to a long-term goal of reducing the time between sending a case for trial and the start of the substantive hearing to a maximum of 12 weeks in both the magistrates' and the Crown Court.

We further recommend that research is undertaken to establish whether long waits for trial negatively impact on justice outcomes (ie are correlated with a rise in ineffective trials or a disproportionate number of not guilty verdicts).

In this time of austerity some will undoubtedly argue we cannot afford to address the issues facing our courts. We believe that, in the interests of justice, we cannot afford not to.

Waiting for justice: how victims of crime are waiting longer than ever for criminal trials

Victims and witnesses of crime are now waiting longer than at any point over the past 15 years to see offenders brought to justice. Figures released by the Ministry of Justice have revealed that the average time from offence to completion ¹ for cases heard at the Crown Court now stands at over ten and a half months ² (321 days). The average time taken to bring an offender to justice in the Magistrates' court is less than half as long, averaging 148 days across 2014.

The criminal justice process is made up of a number of stages. The average time from offence to completion for all cases completing in the Crown Court across 2014 was 313 days, and this was made up as follows:

Offence to charge - 126 days



Charge to first listing - 16 days



First listing to completion in magistrates' court - 6 days



Sending to Crown Court to main hearing - 117 days



Main hearing to completion - 47 days



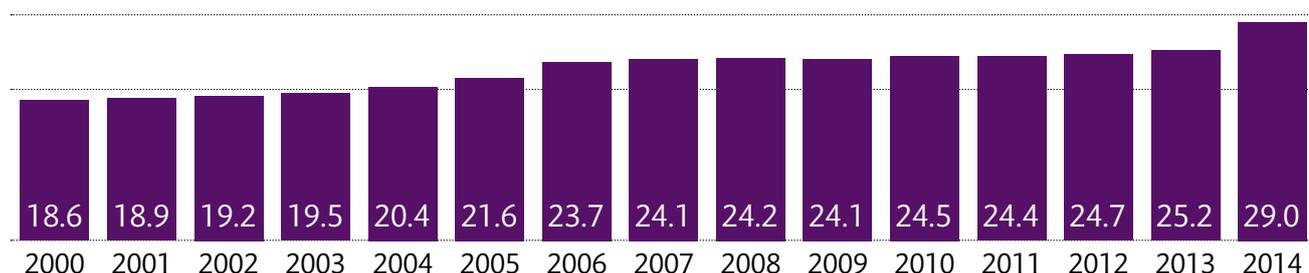
The stage taking the longest time on average is that from offence to charge. There are several reasons why this may be the case, including where there is a long time between the offence taking place and it being reported, and the nature and complexity of the investigation. However, the factor over which the criminal justice system has greatest control, and that which is currently proving increasingly protracted, is the time taken for a case to be listed for trial in the Crown Court.

The time taken between sending a case to the Crown Court and the start of the substantive hearing has risen dramatically over the past fifteen years. This is particularly true where the defendant pleads not guilty, and in such cases the average wait has climbed by over 55 per cent, increasing from 18.6 weeks in 2000 to an average of 29 weeks in 2014.

¹ the date the crime was committed to the conclusion of criminal proceedings

² Ministry of Justice, 'Criminal Court Statistics Quarterly, England and Wales; October to December 2014', 26 March 2015 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417233/criminal-court-statistics-bulletin-october-to-december-2014.pdf

Average waiting time (weeks) – not guilty plea trials in the Crown Court



Waiting times for triable-either-way cases have shown a substantial rise over the past two years alone, increasing by five weeks between the start of 2013 and the end of 2014, an increase of 25 per cent. But the longest waits of all can be seen in serious (indictable) offences where a defendant pleads not guilty. Here the average time a victim or witness waits for a case which is ready for trial to be heard hit 31.1 weeks (more than seven months) by the last quarter of 2014, up from 27.8 weeks in the first quarter. This means that for the most serious cases where a not guilty plea is entered a victim will wait more than a year on average from offence to completion³.

Aggregated figures also mask wide variations between regions and crime types. For example, the average time from offence and completion ranges from 234 days in Merthyr Tydfil Combined Court Centre to 502 days in the Central Criminal Court in London⁴. Similarly with crime type, while the average time from offence to completion across all courts for theft offences was 99 days in 2014, for sexual offences it was 522 days and 599 days for fraud. Although the differences here are largely accounted for by the significantly increased pre-trial stage (offence to charge) for these offence categories.

In parallel to the increase in the time taken for cases to reach trial, the number of outstanding cases (those waiting for trial) is also rising fast. The number of outstanding triable-either-way cases in the Crown Court rose by 76 per cent in the fourth quarter of 2014 when compared with the first quarter of 2013.

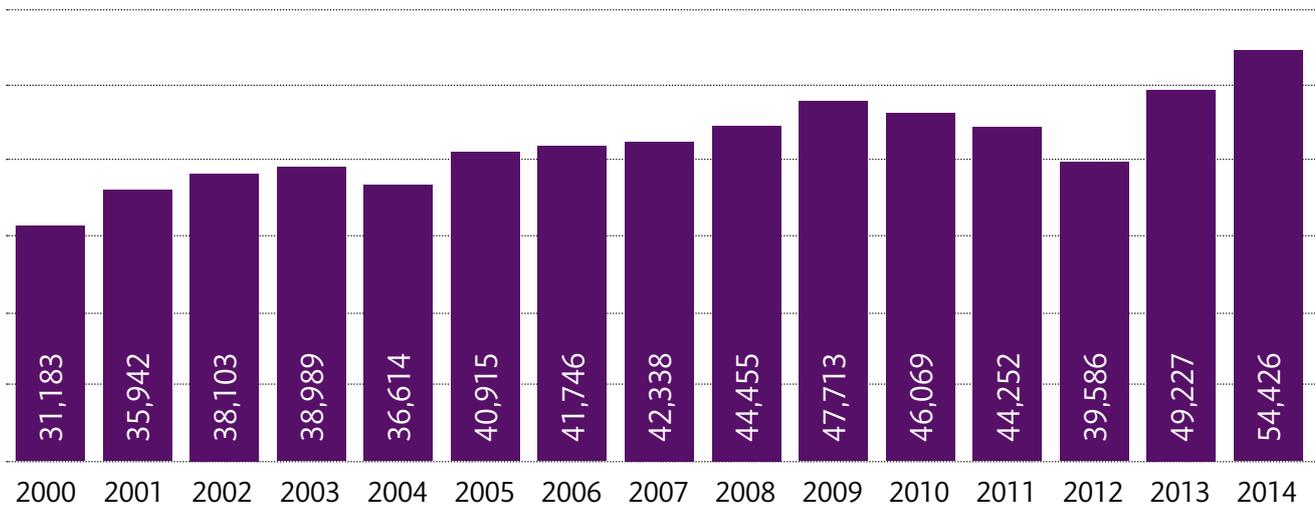
While the number of outstanding cases in the Crown Court has fluctuated over the past 15 years, the direction of travel has been generally upwards (there have been four years since 2000 where the number of cases outstanding has fallen; in all other years outstanding cases have risen). There is now a backlog of over 54,000 outstanding cases waiting to be heard in the Crown Court, up more than 23,000, or 75 per cent, since the year 2000.

³ This presumes that such cases take the 'average' time to progress through the earlier stages of the criminal justice process

⁴ Ministry of Justice, 2015, 'criminal courts timeliness' excel spreadsheet:

<https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-october-to-december-2014>

Outstanding cases (Crown Court)



While it is true that the number of cases being processed by the Crown Court has increased in recent years, the increase in cases handled has failed to keep pace with the rise in receipts. The net result is that the number of outstanding cases continues to increase and waiting times get ever longer, a situation which is likely to continue playing out for the foreseeable future. This is despite at least 13 major Government reports and initiatives in the past decade aimed at improving the efficiency of the courts (see Annex A). The current backlog of Crown Court cases (54,426) would take a year and a half to clear from this point⁵ were there to be no further cases sent for trial during that time.

The increased pressure on the courts system has also led to a rise in the number of trials having to be adjourned on the day of the hearing due to a lack of court time. In 2014 only half of Crown Court trials were 'effective' (ie went ahead on the scheduled date). The biggest single reason for a Crown Court trial being recorded as ineffective was 'court administration' (for example, where too many cases are listed for trial in the same court on the same day and not enough drop out). This accounted for almost a quarter (24 per cent) of all ineffective trials in 2014. The proportion of trials which are rendered ineffective due to administration issues has almost doubled since 2007, when court administration accounted for just 13.5 per cent of all ineffective trials.

⁵ There were 35,974 cases listed for trial in the Crown Court in 2014 and the current backlog of cases waiting to be heard stands at 54,426 (*Criminal Court Statistics Quarterly, England and Wales; October to December 2014*)

Why are we waiting?: The impact of waiting on victims

We know from our experience of working with victims for over forty years that waiting a long time for a case to come to trial can cause stress, anxiety and inconvenience. Research commissioned by Victim Support⁶ found that victims thought reducing the time between offence and trial should be a priority for the criminal justice system. Many victims reported that they were unable to move on from the crime until the resolution of the case.

“It is coming up to two years since my case and there still hasn’t been a court date which has gone ahead. It has constantly been moved due to some reason or another, I just want to get it out of the way and over with.”

(Victim, 2010)

These findings were supported by the 2013 research report ‘*Out of the Shadows*’⁷ which found that delays in cases reaching court, and subsequent adjournments were “especially difficult for victims of crime”. The authors reported that “many of our interviewees talked about having to put their life on hold or of not being able to move on from the crime” during the period between the offender being charged and the start of the trial. The problem of long waits for cases to be heard was also acknowledged by Lord Justice Leveson in his recent review of efficiency in criminal proceedings⁸. In the review, published in January 2015, he noted that at least one Crown Court was fixing trial dates “as far ahead as 2016” and that this “is doubtless causing a considerable increase in the stress placed on victims and witnesses”.

Victim Support staff and volunteers also regularly report on the stress and anxiety caused to victims and witnesses by long waits for trial and multiple adjournments. In a recent typical example, a victim of domestic violence involving a serious assault had her trial cancelled for the third time in March this year. The Victim Support staff member supporting her reported that the victim was “extremely distressed having waited months for the court date to come round and prepared herself for it. She feels re-victimised.” **(Victim Support staff member, 2015)**

In a similar case which took a year to reach trial having been adjourned on three occasions our staff member reported that:

“The witness became visibly upset when speaking with the prosecutor, and stated that it was because it had gone on so long. She told us that she has been unable to move on with her life for nearly a year, and this has taken a toll on her emotionally.”

(Victim Support staff member, 2015)

6 Opinion Leader & Victim Support (2010) ‘*Seeking the views of victims and witnesses*’ (unpublished)

7 Hunter, G et al (2013) ‘*Out of the shadows: victims’ and witnesses’ experiences of attending the Crown Court*’, Birkbeck & Victim Support

8 Rt Hon Sir Brian Leveson (January 2015) Review of Efficiency in Criminal Proceedings:

<https://www.judiciary.gov.uk/wp-content/uploads/2015/01/review-of-efficiency-in-criminal-proceedings-20151.pdf>



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Some victims find the period of waiting so difficult that it seriously impacts on their mental and even physical wellbeing. In the case of one victim we have recently supported he had to be admitted to hospital due to stress and anxiety associated with waiting for the case to reach trial:

“He [the victim] had been ill in hospital with the stress that the harassment was causing him... he was incredibly upset that the case was not dealt with, and that it was adjourned for such a long time. The defendant is his neighbour and he therefore felt that he and his family were being sent home to ‘live with the problem’ until the trial. The victim said that his life had become unbearable”.

(Victim Support staff member, 2015)

Not only are long waits for a case to reach trial stressful for victims and witnesses, they also have the potential to undermine the effectiveness of the trial itself. Lord Justice Leveson notes in his recent review of efficiency in criminal proceedings that where there is a long period between offence and trial “memories will be affected and the direct evidence less persuasive”⁹. This point is also picked up on by our staff on the ground. Feeding back on a recent case where a vulnerable victim with Asperger’s Syndrome had their case adjourned for six months, a Victim Support volunteer commented “one has to question under these circumstances just what quality of evidence he is likely to be able to give, so far down the line”.

⁹ Ibid

The risk that the quality of the evidence given at trial will diminish the longer the waiting period is clearly a real one. Even more concerning though is the risk that the trial will collapse altogether. A policy briefing published by the Criminal Justice Alliance in March 2015 noted that “last year, over 4,500 trials at Magistrates’ Courts and almost 2000 Crown Court trials did not happen as a result of the absence of witnesses and defendants – this amounts to around 40 per cent of all ‘ineffective trials’ in our criminal courts”¹⁰. The authors draw a potential link between the time taken for a case to reach trial and witness absence: “there is plenty of time for both defendants and witnesses to forget or misremember what is required of them, resulting in missed court dates”.

While there is no research evidence that we are aware of demonstrating a concrete link between long waiting times/multiple adjournments and ineffective trials, there is anecdotal evidence of a correlation. Research commissioned by Victim Support found that “the changing of court times and dates also resulted in some participants not attending court and hence potentially affecting the outcome of the case”¹¹. Victim Support staff also frequently report that victims and witnesses either do not return to court following an adjournment or threaten not to. In a case due to be heard in February 2015 our staff member reported that:

“The court had been unable to book a sign language interpreter for the defendant so the case had been adjourned six times. The witnesses... were angry and dismayed. The witnesses also stated that they would not be prepared to come back again if the case did not happen on the next trial date”.

(Victim Support staff member, 2015)

There is also some suggestion that defendants may be deliberately exploiting long waits for cases to come to trial in the expectation of the case collapsing. Lord Justice Leveson writes that listing cases for trial many months ahead “increase[s] the likelihood of defendants pleading not guilty, knowing that the trial will not come up for a considerable period by which time... victims and witnesses [may have] lost interest or moved away”¹².

The consequences of a criminal trial collapsing because a victim has lost interest or confidence in the justice process are far-reaching. Not only does such a scenario result in failure to bring an offender to justice, leaving them free to commit further crimes, negative experiences also make victims less likely to report incidents in the future¹³. Thus a victim feeling so dissatisfied that they disengage from the criminal justice system can impact not only the case in question, but future cases relating to future crimes not yet even committed.

10 Gold Lagratta, E & Bowen, P (2015) *To be Fair: procedural fairness in courts*, Criminal Justice Alliance

11 Opinion Leader & Victim Support (2010) *Seeking the views of victims and witnesses* (unpublished)

12 Rt Hon Sir Brian Leveson (January 2015) Review of Efficiency in Criminal Proceedings:

<https://www.judiciary.gov.uk/wp-content/uploads/2015/01/review-of-efficiency-in-criminal-proceedings-20151.pdf>

13 Victim Support (2010) *Left in the dark: why victims of crime need to be kept informed*:

<https://www.victimsupport.org.uk/sites/default/files/Left%20in%20the%20dark.pdf>

Stopping the rot: conclusions and recommendations

Proverb has it that the wheels of justice turn slowly. What is becoming increasingly clear is that they are now in danger of turning so slowly that they grind almost to a halt. Waiting times for trials in the Crown Court are spiralling, and at the same time the backlog of outstanding cases is rising fast. The result is that waiting times, which have already hit a 15 year high, will continue to increase for the foreseeable future.

Protracted waiting times and multiple adjournments have now become issues of such proportion that they risk undermining the integrity of the criminal justice system. Where a case collapses (for example because a witness fails to attend), in part or in full because of the timeliness of the hearing, that represents an abject failure of the criminal justice system to achieve its principal objective – that of securing justice. With a backlog of over 54,000 cases in the Crown Court, the system is reaching crisis point.

It is clear that drastic action is required to address the backlog of outstanding cases, reduce unnecessary adjournments, and bring waiting times down to a reasonable level. There is undoubtedly recognition amongst some members of the senior judiciary that the system requires reform. In his Review of Efficiency in Criminal Proceedings, Lord Justice Leveson wrote that he was “firmly of the view that a radical change is essential in the way the courts manage their business”. He suggests a number of ways in which the system should be reformed including through robust case management, ensuring a higher proportion of cases are effective, moving towards single/fixed listing of trials, retaining cases in the Magistrates’ courts where possible, and potentially extending the working hours of the courts. While the previous government accepted these recommendations in principle we have yet to see the concerted and vigorous effort that would be required to robustly tackle the issues at hand.

Victim Support believes that the failure of the courts to process criminal cases within a reasonable timeframe risks doing immense damage to the standing and effectiveness of our criminal justice system. **We recommend that the new government urgently establishes a criminal courts waiting times taskforce and commits to a long-term goal of reducing the time between sending a case for trial and the start of the substantive hearing to a maximum of 12 weeks in both the magistrates’ and the Crown Court.**

We further recommend that research is undertaken to establish whether long waits for trial negatively impact on justice outcomes (ie are correlated with a rise in ineffective trials or a disproportionate number of not guilty verdicts).

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Annex A

Criminal Justice reform initiatives relating to court efficiency since 2000

Over the past ten years at least 13 significant reports, proposals and initiatives have been put forward by Government or the Judiciary aimed at improving the efficiency of the criminal courts. These include:

Home Office, Department for Constitutional Affairs & Attorney General's Office (2006) *'Delivering Simple, Speedy, Summary Justice'*:

http://webarchive.nationalarchives.gov.uk/+http://www.dca.gov.uk/publications/reports_reviews/delivery-simple-speedy.pdf

Virtual courts (2009)

Ministry of Justice (2011) *'Modernising the Criminal Justice System The CJS Efficiency Programme'*:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217233/cjs-efficiency-delivery-programme-moj-bus-plan.pdf

Stop Delaying Justice (2011) – magistrates' court judiciary-led initiative

Early Guilty Plea Scheme (2012) – initiative instigated by the Senior Presiding Judge

Ministry of Justice (2012) *'Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System'*:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217328/swift-and-sure-justice.pdf

Abolition of committal hearings (2012/13)

Ministry of Justice (2013) *'Transforming the CJS A Strategy and Action Plan to Reform the Criminal Justice System'*:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209659/transforming-cjs-2013.pdf

Ministry of Justice (2014) *'The Criminal Justice System Digital Business Model'*

Review of Efficiency in Criminal Proceedings by The Rt Hon Sir Brian Leveson President of the Queen's Bench Division (2015):

<https://www.judiciary.gov.uk/wp-content/uploads/2015/01/review-of-efficiency-in-criminal-proceedings-20151.pdf>

Transforming Summary Justice Programme (ongoing)

CJS Efficiency Programme (ongoing)

CJS Common Platform Programme (ongoing)

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